

TMLF HAWAII LLLC  
A Hawai'i Limited Liability Law Company

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Attorney for Defendants

PETER T. STONE; JENNY J.N.A. NAKAMOTO; SUN YOUNG PARK; ROBIN LYN MILLER; STEPHEN J. TRIMBLE; TMLF HAWAII, LLLC; SN SERVICING CORP.; JASON COTTON, ESQ. and THE MORTGAGE LAW FIRM

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF HAWAI'I**

PAUL ALLEN GARCIA, KIRAH-SHANTEL GARCIA, KEANE BOBBY BRAUN,

Plaintiffs,

vs.

STATE OF HAWAII, JUDGE KATHLEEN WATANABE, JUDGE RANDAL VALENCIANO, JONATHAN J. CHUN; LORNA A. NISHIMITSU; BELLES GRAHAM LLP, PETER T. STONE; DAISY LYNN B. HARSFIELD; ANYA M. PEREZ; JENNY J.N.A. NAKAMOTO; SUN YOUNG PARK; ROBIN LYN MILLER; STEPHEN J. TRIMBLE; KEONE WAYNE

CASE NO. 1:22-cv-00432-JMS-KJM

**DEFENDANTS PETER T. STONE, JENNY J.N.A. NAKAMOTO, SUN YOUNG PARK, ROBIN LYN MILLER, STEPHEN J. TRIMBLE, TMLF HAWAII, LLLC, SN SERVICING CORP., JASON COTTON, ESQ., AND THE MORTGAGE LAW FIRM'S RESPONSE TO PLAINTIFFS' MOTION FOR NOTING AND ENTRY OF DEFAULT AGAINST CERTAIN PARTIES LISTED IN THE ANNEXED LIST AND WHO HAVE NOT TIMELY ANSWERED NOR RESPONDED IN THE ACTION, FILED MAY 24, 2023; CERTIFICATE OF SERVICE**

*(Case caption continued on next page)*

SOUZA; TMLF HAWAII, LLC;  
PENNYMAC CORP.; GARY  
VICTOR DUBIN, DUBIN LAW  
FIRM, KEN OHARA, DAVID  
MCALLISTER, DANIEL ALAN  
ROSS, ZACHARY K. KONDO,  
ALDRIDGE PITE LLP, HILL  
WALLACK LLP, SN SERVICING  
CORP., ERIC A. BRAUN, 1900  
CAPITAL TRUST III BY US BANK  
TRUST NATIONAL ASSOCIATION,  
NOT IN ITS INDIVIDUAL  
CAPACITY BUT SOLELY AS  
CERTIFICATE TRUSTEE,  
ASSOCIATION OF APARTMENT  
OWNERS OF KAWAIKINI  
ESTATES, ASSET ACCEPTANCE,  
CAPITAL ONE N.A., TITLE  
GUARANTY OF HAWAII,  
HONOLULU INFORMATION  
SERVICE, INC. DBA HONINFO,  
FIDELITY NATIONAL TITLE  
INSURANCE COMPANY, BROOKS  
R. BRAUN, ROBERT L. SOARES  
JR., DEREK W.C. WONG, LLC,  
COUNTY OF KAUAI –  
DEPARTMENT OF WATER, JASON  
COTTON, ESQ., THE MORTGAGE  
LAW FIRM, JOHN DOES 1-20;  
JANE DOES 1-20; DOE  
CORPORATIONS 1-20; DOE  
ENTITIES 1-20; AND DOE  
GOVERNMENTAL UNITS 1-20,

Defendants.

**DEFENDANTS PETER T. STONE, JENNY J.N.A. NAKAMOTO, SUN  
YOUNG PARK, ROBIN LYN MILLER, STEPHEN J. TRIMBLE, TMLF  
HAWAII, LLC, SN SERVICING CORP., JASON COTTON, ESQ., AND  
THE MORTGAGE LAW FIRM’S RESPONSE TO PLAINTIFFS’ MOTION  
FOR NOTING AND ENTRY OF DEFAULT AGAINST CERTAIN  
PARTIES LISTED IN THE ANNEXED LIST AND WHO HAVE NOT  
TIMELY ANSWERED NOR RESPONDED IN THE ACTION, FILED  
MAY 24, 2023**

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COMES NOW, Defendants PETER T. STONE, JENNY J.N.A. NAKAMOTO, SUN YOUNG PARK, ROBIN LYN MILLER, STEPHEN J. TRIMBLE, TMLF HAWAII, LLC, SN SERVICING CORP., JASON COTTON, ESQ., and THE MORTGAGE LAW FIRM’s (“Defendants”), by and through their undersigned attorney, and submits its Response to Plaintiffs PAUL ALLEN GARCIA, KIRAH-SHANTTEL GARCIA, and KEANE BOBBY BRAUN’s (“Plaintiffs”) Motion for Noting and Entry of Default Against Certain Parties Listed in the Annexed List and Who Have Not Timely Answered nor Responded in the Action (“Motion for Entry of Default”), filed herein on May 24, 2023 as ECF Document No. 98.

Defendant SN SERVICING CORP. filed its Joinder in Defendants Fidelity National Title Insurance Company and Title Guaranty of Hawaii, LLC’s Motion to Dismiss Amended Complaint, Filed March 14, 2023 on April 12, 2023 as ECF Document No. 71. On April 25, 2023, Defendants filed their Joinder in Defendants Fidelity National Title Insurance Company and Title Guaranty of Hawaii, LLC’s Motion to Dismiss Amended Complaint, Filed March 14, 2023 on April 12, 2023 as

ECF Document No. 84.

On May 24, 2023, Plaintiffs filed their Motion for Entry of Default in which Plaintiffs appear to seek, among other things, a finding from this Court that certain parties have “not answered or responded timely as provided by the rules.” See Motion for Entry of Default at p.4 ¶9.

Defendants object to Plaintiffs’ request that default be entered against any or all of them. Rule 55(a) of the Federal Rules of Civil Procedure only allows for the entry of default “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend.” As stated above, Defendants have joined in Defendants Fidelity National Title Insurance Company and Title Guaranty of Hawaii, LLC’s Motion to Dismiss. A joinder in a pending motion to dismiss evidences Defendants’ intent to “otherwise defend” and renders Plaintiff’s request for the entry of default inappropriate. Gipbsin v. Kernan, 2009 WL 1650029, at \*2 (E.D. Cal. 2009).

In light of the foregoing, Defendants respectfully request that Plaintiff’s request for entry of default as to Defendants be denied.

DATED: Honolulu, Hawai‘i, June 6, 2023.

/s/ Charles R. Prather  
CHARLES R. PRATHER

Attorney for Defendants  
PETER T. STONE

JENNY J.N.A. NAKAMOTO  
SUN YOUNG PARK  
ROBIN LYN MILLER  
STEPHEN J. TRIMBLE  
TMLF HAWAII, LLC  
SN SERVICING CORP.  
JASON COTTON, ESQ. and  
THE MORTGAGE LAW FIRM